

1 RACHELE R. BYRD (190634)
2 **WOLF HALDENSTEIN ADLER**
3 **FREEMAN & HERZ LLP**
4 750 B Street, Suite 1820
5 San Diego, CA 92101
Telephone: 619/239-4599
Facsimile: 619/234-4599
byrd@whafh.com

6 *Interim Class Counsel for the*
7 *Consumer Plaintiffs*

8 BENJAMIN J. SIEGEL (SBN 256260)
9 **HAGENS BERMAN SOBOL**
10 **SHAPIRO LLP**
11 715 Hearst Avenue, Suite 202C
Berkeley, CA 94710
Telephone: (510) 725-3000
Facsimile: (510) 725-3001
bens@hbsslaw.com

12 *Interim Class Counsel for the*
13 *Developer Plaintiffs*

14 PAUL J. RIEHLE (SBN 115199)
15 paul.riehle@faegredrinker.com
FAEGRE DRINKER BIDDLE &
REATH LLP
16 Four Embarcadero Center, 27th Floor
17 San Francisco, CA 94111
Telephone: (415) 591-7500
Facsimile: (415) 591-7510

18 LAUREN A. MOSKOWITZ (*pro hac*
19 *vice*)
lmoskowitz@cravath.com
CRAVATH, SWAINE & MOORE LLP
20 825 Eighth Avenue
New York, New York 10019
Telephone: (212) 474-1000
Facsimile: (212) 474-3700

21 *Attorneys for Plaintiff Epic Games, Inc.*
22 [Additional counsel on signature page]

23 **UNITED STATES DISTRICT COURT**
24
NORTHERN DISTRICT OF CALIFORNIA
25
OAKLAND DIVISION

26 EPIC GAMES, INC.,
27 *Plaintiff, Counter-defendant,*
28 v.
APPLE INC.,
Defendant, Counterclaimant.

Case No. 4:20-cv-05640-YGR-TSH

Case No. 4:11-cv-06714-YGR-TSH

Case No. 4:19-cv-03074-YGR-TSH

29 IN RE APPLE IPHONE ANTITRUST
30 LITIGATION

31 **PLAINTIFFS' ADMINISTRATIVE**
MOTION TO FILE UNDER SEAL
SUPPORTING EXHIBITS A TO L TO
THE JOINT DISCOVERY LETTER
BRIEF REGARDING CUE AND
FEDERIGHI DEPOSITIONS

32 DONALD R. CAMERON, *et al.*,
33 *Plaintiffs,*
34 v.
35 APPLE INC.,
Defendant.

36 Judge: Hon. Magistrate Thomas S. Hixson

1 Pursuant to the Court's order to file certain documents (*Epic Games, Inc. v. Apple*
 2 *Inc.*, No. 20-cv-05640-YGR-TSH, ECF No. 267; *In re Apple iPhone Antitrust Litigation*, No.
 3 4:11-cv-06714-YGR-TSH, ECF No. 375; *Donald R. Cameron, et al. v. Apple Inc.*, No. 4:19-cv-
 4 03074-YGR-TSH, ECF No. 246), Plaintiffs in the above-captioned actions bring this joint
 5 administrative motion under Civil Local Rules 7-11(a) and 79-5(d)-(e) for an order granting
 6 Plaintiffs leave to file under seal Supporting Exhibits A to L to the Joint Discovery Letter Brief
 7 Regarding Cue and Federighi Depositions (the "Supporting Exhibits").

8 Civil Local Rule 79-5 provides that documents, or portions thereof, may be sealed
 9 if a party "establishes that the documents, or portions thereof, are privileged, protectable as a trade
 10 secret or otherwise entitled to protection under the law." Civ. L.R. 79-5(b). Under this standard, a
 11 party seeking to seal a document generally must overcome the "strong presumption in favor of
 12 access" that applies to court documents other than those that are traditionally kept secret.

13 *Kamakana v. City & Cnty. of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006) (citations omitted).
 14 However, the "public has less of a need for access to court records attached only to non-
 15 dispositive motions because those documents are often 'unrelated, or only tangentially related to
 16 the underlying cause of action.'" *Id.* at 1179 (citations omitted). Instead, a "good cause" showing
 17 under Rule 26(c) [of the Federal Rules of Civil Procedure] will suffice to keep sealed records
 18 attached to non-dispositive motions." *Id.* at 1180; *In re NCAA Student-Athlete Name & Likeness*
 19 *Licensing Litig.*, 2013 WL 3014144, at *1 (N.D. Cal. Jun. 17, 2013). A party seeking to seal such
 20 material must make a "particularized showing of good cause with respect to any individual
 21 document." *San Jose Mercury News, Inc. v. U.S. Dist. Court, N. Dist. (San Jose)*, 187 F.3d 1096,
 22 1103 (9th Cir. 1999). Sealing requests must also be "narrowly tailor[ed]." Civ. L.R. 79-5(b).

23 Subsection (e) of Local Rule 79-5 sets forth procedures that apply when a party
 24 seeks to file information designated as confidential by an opposing party. This Administrative
 25 Motion is based on Defendant Apple Inc.'s ("Apple") designation of information in the
 26 Supporting Exhibits as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS'
 27 EYES ONLY" under the protective orders in the above-captioned actions. (*Epic Games, Inc. v.*
 28

1 *Apple Inc.*, No. 20-cv-05640-YGR-TSH, ECF No. 112; *In re Apple iPhone Antitrust Litigation*,
2 No. 4:11-cv-06714-YGR-TSH, ECF No. 199; *Donald R. Cameron, et al. v. Apple Inc.*, No. 4:19-
3 cv-03074-YGR-TSH, ECF No. 85.) Plaintiffs do not believe that the Supporting Exhibits meet the
4 standard for sealing. Pursuant to subsection (e)(1) of Local Rule 79-5, Apple has four days to file
5 a declaration establishing that all of the designated material is “sealable” (as defined in Local
6 Rule 79-5(b)).

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

1 Dated: January 21, 2021

2 CRAVATH, SWAINE & MOORE LLP
3 Christine Varney
4 Katherine B. Forrest
5 Gary A. Bornstein
6 Yonatan Even
7 Lauren A. Moskowitz
8 M. Brent Byars

9 Respectfully submitted,

10 By: /s/ Lauren A. Moskowitz
11 Lauren A. Moskowitz

12 *Attorneys for Plaintiff Epic Games, Inc.*

13 Dated: January 21, 2021

14 WOLF HALDENSTEIN ADLER FREEMAN &
15 HERZ LLP
16 Mark C. Rifkin
17 Rachele R. Byrd
18 Matthew M. Guiney
19 Brittany N. DeJong

20 Respectfully submitted,

21 By: /s/ Rachele R. Byrd
22 Rachele R. Byrd

23 *Interim Class Counsel for Consumer
24 Plaintiffs*

25 Dated: January 21, 2021

26 HAGENS BERMAN SOBOL SHAPIRO LLP
27 Steve W. Berman
28 Robert F. Lopez
Shana E. Scarlett
Benjamin J. Siegel

Respectfully submitted,

By: /s/ Benjamin J. Siegel
Benjamin J. Siegel

*Interim Class Counsel for Developer
Plaintiffs*

E-FILING ATTESTATION

I, Lauren A. Moskowitz, am the ECF User whose ID and password are being used to file this document. In compliance with Civil Local Rule 5-1(i)(3), I hereby attest that each of the signatories identified above has concurred in this filing.

/s/ *Lauren A. Moskowitz*

Lauren A. Moskowitz